

## **REMARKS / ARGUMENTS**

In complete response to the outstanding Official Action of December 23, 2008, on the above-identified application, reconsideration is respectfully requested. Claims 7, 8, and 10 - 12 remain in this application.

### **Claim Rejections Under 35 U.S.C. § 102**

Claims 7 and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Sype et al '589. Applicants respectfully submit that claims 7 and 8 are not anticipated by Sype et al '589.

Sype et al '589 fails to disclose, at least, "a first intermediate storage tank (V3)" which "receives quenching gas from the cell and feeds the compressor/booster set, and is located on a bypass of the main line" as required in element b) of Claim 7. The system disclosed in Sype et al. '589 clearly has a quenching chamber (20) that discharges the spent quenching gas through butterfly valve 54. At which time this quenching gas is continuously treated (membrane 30, catalyst 36, separator 47) and compressed (oil flooded screw compressor 25, diaphragm compressor 27) and then collected in quenching gas ballast tank 48. Once the pressure within quenching gas ballast tank 48 reaches a certain level, butterfly valve 54 closes and the quenching process is initiated. No where in the figures or in the description is an intermediate storage tank that collects the quenching gas then feeds the compressors or boosters disclosed.

Hence, since every element of claim 7 is not disclosed in Sype et al '589, the anticipation rejection is improper and must be withdrawn. As claim 8 is dependent upon claim 7, the rejection as pertains to this claim is improper as well.

### **Claim Rejections Under 35 U.S.C. § 103**

Claims 10 - 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sype et al. '589 further in view of Bowe. As discussed above, Sype et al. '589 fails to disclose all the elements of claim 7, and Bowe fails to remedy this deficiency. Hence, claims 10 – 12 are not obvious over Sype et al. '589 either alone or in combination with Bowe. Hence there rejections are moot and must be withdrawn.

### **Response to Arguments**

The Examiner notes that she considered the Applicant's arguments in the previous response (which are repeated above) and found them to be not persuasive. The Examiner counters the Applicant's position that Van den Sype et al. '589 fails to disclose every element of the instant claim 7, in particular the intermediate storage tank that collects *quenching gas* then feeds *the compressors or boosters*.

The Examiner points to paragraphs 46 and 51 of the Van den Sype et al published application, and asserts that the 'receiver' that is mentioned in these sections (note, it is not mentioned at all in paragraph 51), functions as the above discussed intermediate storage tank.

Applicants respectfully point out that paragraph 46 notes that "*the raffinate* could be placed in a separate receiver and serve as *purge gas for the quenching chamber*" (emphasis added). One skilled in the art would recognize that this receiver is serving an entirely different function than that required in instant claim 7.

The raffinate is identified in Table 2 as being essentially nitrogen and carbon monoxide, and hence clearly streams 32 and 33 in Figure 3. This is evident from Paragraph 29, wherein it states "The membrane will discard methane, carbon monoxide, caron dioxide and nitrogen, through valve 32."

Paragraph 40 identifies Paragraph as one of numerous possible modifications to the basic Van den Sype et al invention, and is clearly a means of improving helium

recovery. Stream 32 could be sent to another membrane (or a mole sieve) to further purify the waste discharge from membrane 30. The concept of storing this raffinate for a future purpose is also clearly a function of the high nitrogen content of the raffinate, as the specified use is as a purge gas.

Applicant reiterates the insistence that Sype et al. '589 fails to disclose all the elements of claim 7, and Bowe fails to remedy this deficiency. Hence the instant rejections are improper and should be withdrawn.

## CONCLUSION

Accordingly, it is believed that the present application now stands in condition for allowance. Early notice to this effect is earnestly solicited. Should the Examiner believe a telephone call would expedite the prosecution of the application, he is invited to call the undersigned attorney at the number listed below.

Respectfully submitted,

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